

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

PRISCILLA M. SANDERS,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting
Commissioner of Social
Security,

Defendant.

Case No. 6:14-cv-01608-AA
OPINION AND ORDER

AIKEN, Judge:


I reversed a decision of the Commissioner denying plaintiff's application for benefits and remanded the case for further administrative proceedings. The Commissioner now moves to alter or amend the judgment, arguing that I erred by improperly relying on the decision in *Brink v. Comm'r*, 343 Fed. App'x 211 (9th Cir. 2009) rather than the decision in *Stubbs-Danielson v. Astrue*, 539 F.3d 1169 (9th Cir. 2008). The motion is denied.

First, I clarify my discussion of *Brink* and *Stubbs-Danielson*. Contrary to the Commissioner's motion, I did not state that *Stubbs-Danielson* involved no evidence of moderate cognitive limitations. Rather, I noted that the record in that case included a medical source opinion with a "concrete" restriction to "simple tasks," thus providing support for the RFC. Op. & Order at 14. While I quoted the language in *Brink* suggesting that *Stubbs-Danielson* included no evidence of moderate restrictions, I did not make that particular finding. Instead, I found *Brink* more analogous to this case, in that the RFC assessed by the ALJ was incomplete and did not adequately reflect plaintiff's mental limitations due to the specific nature of the cognitive limitations found by Dr. Cotgageorge and endorsed by Dr. Frommelt. *Id.* at 14-16.

Second, I found that the ALJ compounded the problem by relying solely on the Medical Vocational Guidelines (the grids) and failing to obtain vocational expert testimony, even though an expert was present at the hearing. Op. & Order at 16-19. Given the evidence of record regarding plaintiff's mental limitations, the ALJ erred by finding that plaintiff's non-exertional limitations did not significantly affect her occupational base of unskilled work at all exertional levels so as to allow reliance on the grids. *See, e.g., Perkins v. Colvin*, 2013 WL 3930407, at *9 (D. Ariz. July 30, 2013) (finding that the ALJ erred by applying the grids when there was evidence that the claimant had non-exertional limitations related to his cognitive impairments).

Accordingly, the Commissioner's Motion to Alter or Amend Judgment (doc. 24) is DENIED. IT IS SO ORDERED.

Dated this 13th day of May, 2016.


 Ann Aiken
 United States District Judge